

United States District Court
Central District of California

THE GARMON CORPORATION, a
California corporation

Plaintiff,

v.

HEALTHYPETS, INC., a California
corporation; MANDEEP GHUMMAN,

Defendants.

Case No. 5:18-cv-0809-ODW(SHK)

**ORDER GRANTING
PRELIMINARY INJUNCTION [17]**

This matter came on for hearing on June 4, 2018, before the Honorable Otis D. Wright, District Judge, on the Motion for Preliminary Injunction [17] by Plaintiff, The Garmon Corporation, a California corporation ("Garmon") seeking, *inter alia*, a Preliminary Injunction against Defendant, HealthyPets, Inc., a California corporation ("HPI"), to enjoin HPI from engaging in, and continuing to engage in, certain conduct.

The Court, having read and considered the moving papers, and having heard the oral presentation of counsel for the parties, hereby **FINDS:**

1. Garmon is likely to succeed on the merits of its breach of contract claim against HPI because the Dealer Agreement is a valid contract between the parties that requires HPI to perform certain post-termination obligations, including to discontinue selling Garmon's products, refrain from using its intellectual property, and discontinue using anything which would give the impression that HPI was an authorized dealer. *Disney Enters, Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th

1 Cir. 2017); *Prof'l Collection Consultants. v. Lauron*, 8 Cal. App. 5th 958, 968 (6th
2 Dist. 2017).

3 2. Garmon is likely to suffer irreparable harm in the form of loss of
4 customers and goodwill in the absence of preliminary relief because, among other
5 things, (a) HPI is selling Garmon's animal health products without any up-to-date
6 training or applying the appropriate safeguards; (b) HPI is attempting to purchase
7 Garmon products from Authorized Dealers and Authorized Distributors for resale,
8 and in doing so tortiously inducing these resellers to breach their contracts with
9 Garmon; (c) HPI is selling Garmon products on unauthorized websites and at
10 prices well below those described in the Retail Policy, in an effort to undercut the
11 Authorized Dealers and undermine Garmon's brands; and (d) Garmon is holding
12 itself out to the public as an Authorized Dealer or a reseller otherwise affiliated
13 with Garmon when it is not. *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240
14 F.3d 832, 841 (9th Cir. 2001).

15 3. The balance of equities favors Garmon because HPI agreed to refrain
16 from selling the Garmon products following the termination of the Dealer
17 Agreement. *Disney Enters, Inc.*, 869 F. 3d at 856.

18 4. It is in the public interest to enforce valid contracts, such as the Dealer
19 Agreement. *Flip Flop Shops Franchise Co., LLC v. Neb*, No. 16-7259-JFW (Ex),
20 2016 WL 9275403, at *8 (C.D. Cal. Dec. 5, 2016).

21 **ORDERED**, the Motion for Preliminary Injunction by Plaintiff, The Garmon
22 Corporation, is granted. Defendant, HealthyPets, Inc., and any and all of its agents,
23 employees, successors or assigns, and any other persons acting in concert with
24 Defendant, are hereby ordered to immediately cease and desist from the following
25 actions until final hearing of this case, or further Order of the Court:

26 a. (i) Advertising, promoting and selling any and all Garmon
27 products and (ii) engaging in any conduct that would give the impression that
28 HPI is an authorized dealer, reseller, or representative of or for any or all of

1 such products or has any affiliation whatsoever with Garmon or such products;

2 b. Knowingly or negligently directly or indirectly: (i) advertising,
3 promoting, or selling Garmon products online in any fashion, and (ii) selling to
4 anyone for resale other than, in the case of permitted returns, to Garmon [in
5 accordance with Part F hereinbelow].

6 c. Purchasing or attempting to purchase any of Garmon's products
7 from any third party, including but not limited to Authorized Dealers and
8 Authorized Distributors that have contracted with Garmon to sell Garmon
9 products;

10 d. Using in any manner any the Garmon trademarks, or any marks
11 confusingly similar thereto, or reproductions, counterfeits, copies or colorable
12 imitations thereof;

13 e. Otherwise using, exploiting, or infringing any of Garmon's
14 intellectual property, including any Garmon trademarks, trade names,
15 copyrighted images and text, trade dress and designs, now or hereafter existing;

16 f. HPI shall sell or cause the sale to Garmon of and, as directed by
17 Garmon and at HPI's expense, ship or cause to be shipped to Garmon or its
18 designee(s) each of the items in HPI's inventory of Garmon's products (free of
19 all liens, security interests, claims and encumbrances, other than that or those in
20 favor of Garmon) which is acceptable (as determined by Garmon) at a price
21 equal to the lowest price HPI would have paid to Garmon, or to each relevant
22 Authorized Dealer or Authorized Distributor.

23 g. HPI shall deliver to Garmon, at HPI's expense, all other Garmon
24 products that are in HPI's possession, custody or control, including products
25 that may not be acceptable to Garmon in accordance with Part F, hereinabove,
26 such as Garmon products that are more than one year older than their date of
27 manufacture.

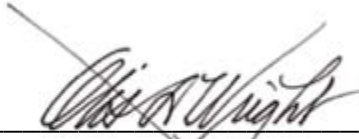
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i. The necessity for Plaintiff to secure a bond, surety or other such undertaking is hereby waived.

For the reasons discussed above, the Court **GRANTS** Garmon's Motion for Preliminary Injunction. (ECF No. 17.)

IT IS SO ORDERED.

June 4, 2018



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE